

AMENDED IN ASSEMBLY MAY 13, 2008

AMENDED IN ASSEMBLY MAY 30, 2007

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 462

Introduced by Senator Torlakson
(Coauthor: Assembly Member Huffman)

February 21, 2007

An act to amend Sections 1250, 1250.1, 1746, 1749, and 1750 of, *and to add Sections 1271.13, 1520.6, 1568.043, 1569.173, and 13131.6 to*, the Health and Safety Code, relating to hospice care.

LEGISLATIVE COUNSEL'S DIGEST

SB 462, as amended, Torlakson. Hospice providers: ~~hospice licensed beds:~~ *licensed hospice facilities.*

Existing law provides for the licensure and regulation ~~by the State Department of Health Services,~~ of health facilities, as defined, *by the State Department of Public Health.*

Existing law provides for the licensure and regulation by the department of certain persons or agencies providing hospice services for persons, and the families of persons, who are experiencing the last phases of life due to a terminal disease. Hospice services may be provided, under specified conditions, in certain health facilities or in a residential care facility for the elderly. Violation of provisions of law or regulations relating to these licensing provisions is a crime.

~~Effective July 1, 2007, responsibility for the administration of the above-mentioned provisions will be transferred to the State Department of Public Health.~~

This bill would permit a licensed and certified hospice provider to provide hospice care to patients *as a health facility* through the operation of a *licensed hospice-licensed beds facility*, as defined, and would permit a *licensed hospice-licensed bed facility* to be located in an existing licensed health facility or residential care facility, ~~subject to specified standards, which this bill would require the Office of Statewide Health Planning and Development and the department to establish~~ *or as a freestanding facility, as specified*. The bill would also require the department to establish a licensing fee for *licensure as a hospice-licensed beds facility*.

~~The bill would also provide for the licensure, as a health facility, of a freestanding hospice facility, as defined, subject to prescribed requirements.~~

By creating a new health facility licensure category and by modifying existing hospice care provisions, the bill would be imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Hospice is a special type of health care service designed to*
- 4 *provide palliative care and to alleviate the physical, emotional,*
- 5 *social, and spiritual discomforts of an individual who is*
- 6 *experiencing the last phases of life due to terminal illness.*
- 7 (b) *Hospice services provide supportive care to the primary*
- 8 *caregiver and family of the patient.*
- 9 (c) *Hospice services are provided primarily in the home, but*
- 10 *can also be provided in residential care or in health facility*
- 11 *inpatient settings.*
- 12 (d) *Persons receiving hospice services should be able to*
- 13 *continue to be a part of their residential care community, rather*

1 *than be required to move to an institutional setting, if that is their*
2 *preference.*

3 *(e) Persons who do not have family or caregivers who are able*
4 *to provide care in the home should be able to have care provided*
5 *in a home-like environment, rather than in an institutional setting,*
6 *if that is their preference.*

7 *(f) Permitting the establishment of licensed hospice facilities,*
8 *whether housed in a residential care setting, within a health*
9 *facility, or operating as a freestanding facility provides additional*
10 *care and treatment options for persons who are at the end-of-life.*

11 *(g) The establishment of licensed hospice facilities is permitted*
12 *under federal law and by many other states.*

13 *(h) Permitting the establishment of licensed hospice facilities*
14 *is consistent with federal legal affirmations of the right of an*
15 *individual to refuse life-sustaining treatment and that each person's*
16 *preferences about their end-of-life care should be considered.*

17 *(i) Permitting the establishment of licensed hospice facilities is*
18 *also consistent with the decision of the United States Supreme*
19 *Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581, which*
20 *held that persons with disabilities have the right to live in the most*
21 *integrated setting possible with appropriate access to care and*
22 *choice of community-based services and placement options.*

23 *(j) It the intent of the Legislature to permit the licensure of*
24 *hospice inpatient facilities in order to improve access to care, to*
25 *provide additional care options, and to provide for a home-like*
26 *environment within which to provide care and treatment for*
27 *persons who are experiencing the last phases of life.*

28 **SECTION 1.**

29 **SEC. 2.** Section 1250 of the Health and Safety Code is amended
30 to read:

31 1250. As used in this chapter, "health facility" means any
32 facility, place, or building that is organized, maintained, and
33 operated for the diagnosis, care, prevention, and treatment of
34 human illness, physical or mental, including convalescence and
35 rehabilitation and including care during and after pregnancy, or
36 for any one or more of these purposes, for one or more persons,
37 to which the persons are admitted for a 24-hour stay or longer, and
38 includes the following types:

39 (a) "General acute care hospital" means a health facility having
40 a duly constituted governing body with overall administrative and

1 professional responsibility and an organized medical staff that
2 provides 24-hour inpatient care, including the following basic
3 services: medical, nursing, surgical, anesthesia, laboratory,
4 radiology, pharmacy, and dietary services. A general acute care
5 hospital may include more than one physical plant maintained and
6 operated on separate premises as provided in Section 1250.8. A
7 general acute care hospital that exclusively provides acute medical
8 rehabilitation center services, including at least physical therapy,
9 occupational therapy, and speech therapy, may provide for the
10 required surgical and anesthesia services through a contract with
11 another acute care hospital. In addition, a general acute care
12 hospital that, on July 1, 1983, provided required surgical and
13 anesthesia services through a contract or agreement with another
14 acute care hospital may continue to provide these surgical and
15 anesthesia services through a contract or agreement with an acute
16 care hospital. The general acute care hospital operated by the State
17 Department of Developmental Services at Agnews Developmental
18 Center may, until June 30, 2007, provide surgery and anesthesia
19 services through a contract or agreement with another acute care
20 hospital. Notwithstanding the requirements of this subdivision, a
21 general acute care hospital operated by the Department of
22 Corrections and Rehabilitation or the Department of Veterans
23 Affairs may provide surgery and anesthesia services during normal
24 weekday working hours, and not provide these services during
25 other hours of the weekday or on weekends or holidays, if the
26 general acute care hospital otherwise meets the requirements of
27 this section.

28 A “general acute care hospital” includes a “rural general acute
29 care hospital.” However, a “rural general acute care hospital” shall
30 not be required by the department to provide surgery and anesthesia
31 services. A “rural general acute care hospital” shall meet either of
32 the following conditions:

33 (1) The hospital meets criteria for designation within peer group
34 six or eight, as defined in the report entitled Hospital Peer Grouping
35 for Efficiency Comparison, dated December 20, 1982.

36 (2) The hospital meets the criteria for designation within peer
37 group five or seven, as defined in the report entitled Hospital Peer
38 Grouping for Efficiency Comparison, dated December 20, 1982,
39 and has no more than 76 acute care beds and is located in a census

1 dwelling place of 15,000 or less population according to the 1980
2 federal census.

3 (b) “Acute psychiatric hospital” means a health facility having
4 a duly constituted governing body with overall administrative and
5 professional responsibility and an organized medical staff that
6 provides 24-hour inpatient care for mentally disordered,
7 incompetent, or other patients referred to in Division 5
8 (commencing with Section 5000) or Division 6 (commencing with
9 Section 6000) of the Welfare and Institutions Code, including the
10 following basic services: medical, nursing, rehabilitative,
11 pharmacy, and dietary services.

12 (c) “Skilled nursing facility” means a health facility that provides
13 skilled nursing care and supportive care to patients whose primary
14 need is for availability of skilled nursing care on an extended basis.

15 (d) “Intermediate care facility” means a health facility that
16 provides inpatient care to ambulatory or nonambulatory patients
17 who have recurring need for skilled nursing supervision and need
18 supportive care, but who do not require availability of continuous
19 skilled nursing care.

20 (e) “Intermediate care facility/developmentally disabled
21 habilitative” means a facility with a capacity of 4 to 15 beds that
22 provides 24-hour personal care, habilitation, developmental, and
23 supportive health services to 15 or fewer developmentally disabled
24 persons who have intermittent recurring needs for nursing services,
25 but have been certified by a physician and surgeon as not requiring
26 availability of continuous skilled nursing care.

27 (f) “Special hospital” means a health facility having a duly
28 constituted governing body with overall administrative and
29 professional responsibility and an organized medical or dental staff
30 that provides inpatient or outpatient care in dentistry or maternity.

31 (g) “Intermediate care facility/developmentally disabled” means
32 a facility that provides 24-hour personal care, habilitation,
33 developmental, and supportive health services to developmentally
34 disabled clients whose primary need is for developmental services
35 and who have a recurring but intermittent need for skilled nursing
36 services.

37 (h) “Intermediate care facility/developmentally
38 disabled-nursing” means a facility with a capacity of 4 to 15 beds
39 that provides 24-hour personal care, developmental services, and
40 nursing supervision for developmentally disabled persons who

1 have intermittent recurring needs for skilled nursing care but have
2 been certified by a physician and surgeon as not requiring
3 continuous skilled nursing care. The facility shall serve medically
4 fragile persons who have developmental disabilities or demonstrate
5 significant developmental delay that may lead to a developmental
6 disability if not treated.

7 (i) (1) “Congregate living health facility” means a residential
8 home with a capacity, except as provided in paragraph (4), of no
9 more than 12 beds, that provides inpatient care, including the
10 following basic services: medical supervision, 24-hour skilled
11 nursing and supportive care, pharmacy, dietary, social, recreational,
12 and at least one type of service specified in paragraph (2). The
13 primary need of congregate living health facility residents shall
14 be for availability of skilled nursing care on a recurring,
15 intermittent, extended, or continuous basis. This care is generally
16 less intense than that provided in general acute care hospitals but
17 more intense than that provided in skilled nursing facilities.

18 (2) Congregate living health facilities shall provide one of the
19 following services:

20 (A) Services for persons who are mentally alert, physically
21 disabled persons, who may be ventilator dependent.

22 (B) Services for persons who have a diagnosis of terminal
23 illness, a diagnosis of a life-threatening illness, or both. Terminal
24 illness means the individual has a life expectancy of six months
25 or less as stated in writing by his or her attending physician and
26 surgeon. A “life-threatening illness” means the individual has an
27 illness that can lead to a possibility of a termination of life within
28 five years or less as stated in writing by his or her attending
29 physician and surgeon.

30 (C) Services for persons who are catastrophically and severely
31 disabled. A catastrophically and severely disabled person means
32 a person whose origin of disability was acquired through trauma
33 or nondegenerative neurologic illness, for whom it has been
34 determined that active rehabilitation would be beneficial and to
35 whom these services are being provided. Services offered by a
36 congregate living health facility to a catastrophically disabled
37 person shall include, but not be limited to, speech, physical, and
38 occupational therapy.

1 (3) A congregate living health facility license shall specify which
2 of the types of persons described in paragraph (2) to whom a
3 facility is licensed to provide services.

4 (4) (A) A facility operated by a city and county for the purposes
5 of delivering services under this section may have a capacity of
6 59 beds.

7 (B) A congregate living health facility not operated by a city
8 and county servicing persons who are terminally ill, persons who
9 have been diagnosed with a life-threatening illness, or both, that
10 is located in a county with a population of 500,000 or more persons
11 may have not more than 25 beds for the purpose of serving
12 terminally ill persons.

13 (C) A congregate living health facility not operated by a city
14 and county serving persons who are catastrophically and severely
15 disabled, as defined in subparagraph (C) of paragraph (2) that is
16 located in a county of 500,000 or more persons may have not more
17 than 12 beds for the purpose of serving catastrophically and
18 severely disabled persons.

19 (5) A congregate living health facility shall have a
20 noninstitutional, homelike environment.

21 (j) (1) “Correctional treatment center” means a health facility
22 operated by the Department of Corrections, the Department of the
23 Youth Authority, or a county, city, or city and county law
24 enforcement agency that, as determined by the state department,
25 provides inpatient health services to that portion of the inmate
26 population who do not require a general acute care level of basic
27 services. This definition shall not apply to those areas of a law
28 enforcement facility that houses inmates or wards that may be
29 receiving outpatient services and are housed separately for reasons
30 of improved access to health care, security, and protection. The
31 health services provided by a correctional treatment center shall
32 include, but are not limited to, all of the following basic services:
33 physician and surgeon, psychiatrist, psychologist, nursing,
34 pharmacy, and dietary. A correctional treatment center may provide
35 the following services: laboratory, radiology, perinatal, and any
36 other services approved by the state department.

37 (2) Outpatient surgical care with anesthesia may be provided,
38 if the correctional treatment center meets the same requirements
39 as a surgical clinic licensed pursuant to Section 1204, with the

1 exception of the requirement that patients remain less than 24
2 hours.

3 (3) Correctional treatment centers shall maintain written service
4 agreements with general acute care hospitals to provide for those
5 inmate physical health needs that cannot be met by the correctional
6 treatment center.

7 (4) Physician and surgeon services shall be readily available in
8 a correctional treatment center on a 24-hour basis.

9 (5) It is not the intent of the Legislature to have a correctional
10 treatment center supplant the general acute care hospitals at the
11 California Medical Facility, the California Men's Colony, and the
12 California Institution for Men. This subdivision shall not be
13 construed to prohibit the Department of Corrections from obtaining
14 a correctional treatment center license at these sites.

15 (k) "Nursing facility" means a health facility licensed pursuant
16 to this chapter that is certified to participate as a provider of care
17 either as a skilled nursing facility in the federal Medicare Program
18 under Title XVIII of the federal Social Security Act or as a nursing
19 facility in the federal Medicaid Program under Title XIX of the
20 federal Social Security Act, or as both.

21 (l) Regulations defining a correctional treatment center described
22 in subdivision (j) that is operated by a county, city, or city and
23 county, the Department of Corrections, or the Department of the
24 Youth Authority, shall not become effective prior to, or if effective,
25 shall be inoperative until January 1, 1996, and until that time these
26 correctional facilities are exempt from any licensing requirements.

27 ~~(m) "Freestanding hospice facility" means a facility that provides~~

28 (m) "*Hospice facility*" means a facility, licensed in accordance
29 with subdivision (f) of Section 1749, that provides some or all
30 levels of hospice care to hospice patients, including routine,
31 continuous, inpatient respite and general inpatient care ~~through~~
32 ~~hospice licensed beds, pursuant to subdivision (q) of Section 1746.~~
33 The department shall establish fees for licensure pursuant to this
34 subdivision. Requirements for licensure under this subdivision
35 shall be consistent with the requirements for licensure under
36 Chapter 8.5 (commencing with Section 1746).

37 ~~SEC. 2.~~

38 SEC. 3. Section 1250.1 of the Health and Safety Code is
39 amended to read:

1 1250.1. (a) The department shall adopt regulations that define
2 all of the following bed classifications for health facilities:

- 3 (1) General acute care.
- 4 (2) Skilled nursing.
- 5 (3) Intermediate care-developmental disabilities.
- 6 (4) Intermediate care-other.
- 7 (5) Acute psychiatric.
- 8 (6) Specialized care, with respect to special hospitals only.
- 9 (7) Chemical dependency recovery.
- 10 (8) Intermediate care facility/developmentally disabled
11 habilitative.
- 12 (9) Intermediate care facility/developmentally disabled nursing.
- 13 (10) Congregate living health facility.
- 14 (11) Pediatric day health and respite care facility, as defined in
15 Section 1760.2.

16 (12) Correctional treatment center. For correctional treatment
17 centers that provide psychiatric and psychological services
18 provided by county mental health agencies in local detention
19 facilities, the State Department of Mental Health shall adopt
20 regulations specifying acute and nonacute levels of 24-hour care.
21 Licensed inpatient beds in a correctional treatment center shall be
22 used only for the purpose of providing health services.

23 (13) ~~Hospice-licensed beds facility.~~ *The department shall consult*
24 *with the State Department of Social Services, the Office of*
25 *Statewide Health Planning and Development, and the Office of*
26 *the State Fire Marshal when drafting regulations pursuant to this*
27 *paragraph.*

28 (b) Except as provided in Section 1253.1, beds classified as
29 intermediate care beds, on September 27, 1978, shall be reclassified
30 by the state department as intermediate care-other. This
31 reclassification shall not constitute a “project” within the meaning
32 of Section 127170 and shall not be subject to any requirement for
33 a certificate of need under Chapter 1 (commencing with Section
34 127125) of Part 2 of Division 107, and regulations of the state
35 department governing intermediate care prior to the effective date
36 shall continue to be applicable to the intermediate care-other
37 classification unless and until amended or repealed by the state
38 department.

39 *SEC. 4. Section 1271.13 is added to the Health and Safety*
40 *Code, to read:*

1 1271.13. (a) Notwithstanding any other provision of law, a
2 health facility may place all or a portion of its licensed bed
3 capacity in voluntary suspension in order to lease that space to a
4 licensed hospice facility, as defined in subdivision (f) of Section
5 1749, in accordance with this section. The health facility shall
6 submit written notification to the department and the Office of
7 Statewide Health Planning and Development at least 30 days prior
8 to the effective date of the lease.

9 (b) The period of voluntary suspense described in subdivision
10 (a) shall coincide with the duration of the hospice facility license.
11 Upon termination of the lease agreement, termination, temporary
12 suspension, revocation, or cancellation of the license, termination
13 of Medicare or Medicaid certification, or voluntary surrender of
14 the hospice facility or hospice program license, the bed capacity
15 shall be removed from voluntary suspension and reinstated to the
16 health facility within which the hospice facility was located.

17 (c) A licensed hospice facility that is located within an existing
18 licensed health facility shall assume full and complete
19 responsibility for complying with all applicable licensing and
20 certification requirements when providing hospice care to patients
21 within the hospice facility, whether hospice services are provided
22 directly by, or under contract with, the licensee. Unless specified
23 by contract, in no event shall the licensed health facility in which
24 a hospice facility is located be responsible for the operations of,
25 or assume any liability in connection with, the hospice facility.

26 SEC. 5. Section 1520.6 is added to the Health and Safety Code,
27 to read:

28 1520.6. (a) (1) (A) An adult residential facility, as defined
29 in paragraph (5) of subdivision (a) of Section 80001 of Title 22 of
30 the California Code of Regulations, licensed pursuant to this
31 chapter, may lease contiguous beds or space to a licensed hospice
32 facility, as defined in subdivision (m) of Section 1250, in
33 accordance with this section. The adult residential facility shall
34 obtain written approval from the department at least 30 days before
35 the effective date of the lease.

36 (B) For purposes of this section, “contiguous beds or space”
37 means a separate unit, wing, floor, building, or grouping of beds,
38 offices, or rooms that are used exclusively for the purposes of
39 operating a licensed hospice facility and does not contain any
40 space used by the adult residential facility.

1 (2) Not more than 25 percent of the adult residential facility's
2 total bed capacity shall be used for purposes of a hospice facility,
3 unless the department issues an exemption.

4 (3) Notwithstanding paragraph (2), the department may increase
5 the maximum percentage of total bed capacity used for a hospice
6 facility through regulations.

7 (b) When a portion of an adult residential facility is leased for
8 the purpose described in subdivision (a), the department shall
9 issue a new license to the licensee of an adult residential facility
10 that does not include the number of beds leased to a hospice
11 facility. The department may request a new plan of operation from
12 the licensee that demonstrates the licensee's ability to meet all
13 licensing requirements within the proximity of the hospice facility.

14 (c) (1) The staff of the adult residential facility shall not
15 simultaneously provide care or services to both residents of the
16 adult residential facility and patients of the hospice facility.

17 (2) Nothing in this subdivision shall prohibit staff from being
18 employees of both facilities.

19 (d) Any person excluded from an adult residential facility
20 pursuant to Section 1558 shall also be excluded from a licensed
21 hospice facility located within that facility.

22 (e) Hospice facility patients shall not be subject to the
23 requirements of paragraph (1) of subdivision (b) of Section 1522.

24 (f) (1) Common areas used by residents of the adult residential
25 facility shall not be routinely used as common areas for hospice
26 patients.

27 (2) Nothing in this section shall prohibit residents of the adult
28 residential facility or patients of the hospice facility from visiting
29 each other, provided all licensing requirements for visitors are
30 met.

31 (g) A licensed hospice facility that is located within an existing
32 licensed adult residential facility shall assume full and complete
33 responsibility for complying with all applicable licensing and
34 certification requirements when providing hospice care to patients
35 within the hospice facility, whether hospice services are provided
36 directly by, or under contract with, the licensee. Unless specified
37 by contract, in no event shall a licensed adult residential facility
38 be responsible for the operations of, or assume any liability in
39 connection with, the hospice facility.

1 *SEC. 6. Section 1568.043 is added to the Health and Safety*
2 *Code, to read:*

3 1568.043. (a) (1) (A) *A residential care facility that is*
4 *licensed pursuant to this chapter may lease contiguous beds or*
5 *space to a licensed hospice facility, as defined in subdivision (m)*
6 *of Section 1250, in accordance with this section. The residential*
7 *care facility shall obtain written approval from the department at*
8 *least 30 days before the effective date of the lease.*

9 (B) *For purposes of this section, “contiguous beds or space”*
10 *means a separate unit, wing, floor, building, or grouping of beds,*
11 *offices, or rooms that are used exclusively for the purposes of*
12 *operating a licensed hospice facility and does not contain any*
13 *space used by the residential care facility.*

14 (2) *Not more than 25 percent of the residential care facility’s*
15 *total bed capacity shall be used for purposes of a licensed hospice*
16 *facility, unless the department issues an exemption.*

17 (3) *The department may increase the maximum percentage of*
18 *total bed capacity used for a hospice facility through regulations.*

19 (b) *When a portion of a residential care facility is leased for*
20 *the purpose described in subdivision (a), the department shall*
21 *issue a new license to the licensee of a residential care facility that*
22 *does not include the number of beds leased to a hospice facility.*
23 *The department may request a new plan of operation from the*
24 *licensee that demonstrates the licensee’s ability to meet all*
25 *licensing requirements within the proximity of the hospice facility.*

26 (c) (1) *The staff of the residential care facility shall not*
27 *simultaneously provide care or services to both residents of the*
28 *residential care facility and patients of the hospice facility.*

29 (2) *Nothing in this section shall prohibit staff from being*
30 *employees of both facilities.*

31 (d) *Any person excluded under Section 1568.092 shall also be*
32 *excluded from the licensed hospice facility.*

33 (e) *Hospice facility patients shall not be subject to the*
34 *requirements of paragraph (2) of subdivision (b) of Section*
35 *1568.09.*

36 (f) (1) *Common areas used by residents of the residential care*
37 *facility shall not be routinely used as common areas for hospice*
38 *patients.*

39 (2) *Nothing in this section shall prohibit residents of the*
40 *residential care facility or patients of the hospice facility from*

1 visiting each other, provided that all licensing requirements for
2 visitors are met.

3 (g) A licensed hospice facility that is located within an existing
4 licensed residential care facility shall assume full and complete
5 responsibility for complying with all applicable licensing and
6 certification requirements when providing hospice care to patients
7 within the hospice facility, whether hospice services are provided
8 directly by, or under contract with, the licensee. Unless specified
9 by contract, in no event shall a licensed residential care facility
10 be responsible for the operations of, or assume any liability in
11 connection with, the hospice facility.

12 SEC. 7. Section 1569.173 is added to the Health and Safety
13 Code, to read:

14 1569.173. (a) (1) (A) A residential care facility for the elderly
15 licensed pursuant to this chapter may lease contiguous beds or
16 space to a licensed hospice facility, as defined in subdivision (m)
17 of Section 1250, in accordance with this section. The residential
18 care facility for the elderly shall obtain prior written approval
19 from the department at least 30 days before the effective date of
20 the lease.

21 (B) For purposes of this section, “contiguous beds or space”
22 means a separate unit, wing, floor, building, or grouping of beds,
23 offices, or rooms that are used exclusively for the purposes of
24 operating a licensed hospice facility and does not contain any
25 space used by the residential facility for the elderly.

26 (2) Not more than 25 percent of the residential care facility for
27 the elderly’s total bed capacity shall be used for purposes of a
28 licensed hospice facility, unless the department issues an
29 exemption.

30 (3) The department may increase the maximum percentage of
31 total bed capacity used for a hospice facility through regulations.

32 (b) When a portion of a residential care facility for the elderly
33 is leased for the purpose described in subdivision (a), the
34 department shall issue a new license to the licensee of a residential
35 facility for the elderly that does not include the number of beds
36 leased to a hospice facility. The department may request a new
37 plan of operation from the licensee that demonstrates the licensee’s
38 ability to meet all licensing requirements within the proximity of
39 the hospice facility.

1 (c) (1) *The staff of the residential care facility for the elderly*
 2 *shall not simultaneously provide care or services to both residents*
 3 *of the residential care facility for the elderly and patients of the*
 4 *hospice facility.*

5 (2) *Nothing in this section shall prohibit staff from being*
 6 *employees of both facilities.*

7 (d) *Any person excluded under Section 1569.58 shall also be*
 8 *excluded from the licensed hospice facility.*

9 (e) *Hospice facility patients shall not be subject to the*
 10 *requirements of subparagraph (B) of paragraph (1) of subdivision*
 11 *(b) of Section 1569.17.*

12 (f) (1) *Common areas used by residents of the residential care*
 13 *facility for the elderly shall not be routinely used as common areas*
 14 *for hospice patients.*

15 (2) *Nothing in this section shall prohibit residents of the*
 16 *residential care facility for the elderly or patients of the hospice*
 17 *facility from visiting each other, provided that all licensing*
 18 *requirements for visitors are met.*

19 (g) *A licensed hospice facility that is located within an existing*
 20 *licensed residential care facility for the elderly shall assume full*
 21 *and complete responsibility for complying with all applicable*
 22 *licensing and certification requirements when providing hospice*
 23 *care to patients within the hospice facility, whether hospice services*
 24 *are provided directly by, or under contract with, the licensee.*
 25 *Unless specified by contract, in no event shall a licensed residential*
 26 *care facility for the elderly be responsible for the operations of,*
 27 *or assume any liability in connection with, the hospice facility.*

28 ~~SEC. 3.~~

29 SEC. 8. Section 1746 of the Health and Safety Code is amended
 30 to read:

31 1746. For the purposes of this chapter, the following definitions
 32 apply:

33 (a) “Bereavement services” means those services available to
 34 the surviving family members for a period of at least one year after
 35 the death of the patient, including an assessment of the needs of
 36 the bereaved family and the development of a care plan that meets
 37 these needs, both prior to and following the death of the patient.

38 (b) “Hospice” means a specialized form of interdisciplinary
 39 health care that is designed to provide palliative care, alleviate the
 40 physical, emotional, social, and spiritual discomforts of an

1 individual who is experiencing the last phases of life due to the
2 existence of a terminal disease, and provide supportive care to the
3 primary caregiver and the family of the hospice patient, and that
4 meets all of the following criteria:

5 (1) Considers the patient and the patient’s family, in addition
6 to the patient, as the unit of care.

7 (2) Utilizes an interdisciplinary team to assess the physical,
8 medical, psychological, social, and spiritual needs of the patient
9 and the patient’s family.

10 (3) Requires the interdisciplinary team to develop an overall
11 plan of care and to provide coordinated care that emphasizes
12 supportive services, including, but not limited to, home care, pain
13 control, and limited inpatient services. Limited inpatient services
14 are intended to ensure both continuity of care and appropriateness
15 of services for those patients who cannot be managed at home
16 because of acute complications or the temporary absence of a
17 capable primary caregiver.

18 (4) Provides for the palliative medical treatment of pain and
19 other symptoms associated with a terminal disease, but does not
20 provide for efforts to cure the disease.

21 (5) Provides for bereavement services following death to assist
22 the family in coping with social and emotional needs associated
23 with the death of the patient.

24 (6) Actively utilizes volunteers in the delivery of hospice
25 services.

26 (7) To the extent appropriate, based on the medical needs of the
27 patient, provides services in the patient’s home or primary place
28 of residence.

29 (c) “Inpatient care arrangements” means arranging for those
30 short inpatient stays that may become necessary to manage acute
31 symptoms or because of the temporary absence, or need for respite,
32 of a capable primary caregiver. The hospice shall arrange for these
33 stays, ensuring both continuity of care and the appropriateness of
34 services.

35 (d) “Medical direction” means those services provided by a
36 licensed physician and surgeon who is charged with the
37 responsibility of acting as a consultant to the interdisciplinary
38 team, a consultant to the patient’s attending physician and surgeon,
39 as requested, with regard to pain and symptom management, and
40 a liaison with physicians and surgeons in the community.

1 (e) “An interdisciplinary team” means the hospice care team
2 that includes, but is not limited to, the patient and patient’s family,
3 a physician and surgeon, a registered nurse, a social worker, a
4 volunteer, and a spiritual caregiver. The team shall be coordinated
5 by a registered nurse and shall be under medical direction. The
6 team shall meet regularly to develop and maintain an appropriate
7 plan of care.

8 (f) “Plan of care” means a written plan developed by the
9 attending physician and surgeon, the medical director or physician
10 and surgeon designee, and the interdisciplinary team that addresses
11 the needs of a patient and family admitted to the hospice program.
12 The hospice shall retain overall responsibility for the development
13 and maintenance of the plan of care and quality of services
14 delivered.

15 (g) “Skilled nursing services” means nursing services provided
16 by or under the supervision of a registered nurse under a plan of
17 care developed by the interdisciplinary team and the patient’s
18 physician and surgeon to a patient and his or her family that pertain
19 to the palliative, supportive services required by patients with a
20 terminal illness. Skilled nursing services include, but are not limited
21 to, patient assessment, evaluation and case management of the
22 medical nursing needs of the patient, the performance of prescribed
23 medical treatment for pain and symptom control, the provision of
24 emotional support to both the patient and his or her family, and
25 the instruction of caregivers in providing personal care to the
26 patient. Skilled nursing services shall provide for the continuity
27 of services for the patient and his or her family. Skilled nursing
28 services shall be available on a 24-hour on-call basis.

29 (h) “Social services/counseling services” means those counseling
30 and spiritual care services that assist the patient and his or her
31 family to minimize stresses and problems that arise from social,
32 economic, psychological, or spiritual needs by utilizing appropriate
33 community resources, and maximize positive aspects and
34 opportunities for growth.

35 (i) “Terminal disease” or “terminal illness” means a medical
36 condition resulting in a prognosis of life of one year or less, if the
37 disease follows its natural course.

38 (j) “Volunteer services” means those services provided by
39 trained hospice volunteers who have agreed to provide service
40 under the direction of a hospice staff member who has been

1 designated by the hospice to provide direction to hospice
2 volunteers. Hospice volunteers may be used to provide support
3 and companionship to the patient and his or her family during the
4 remaining days of the patient’s life and to the surviving family
5 following the patient’s death.

6 (k) “Multiple location” means a location or site from which a
7 hospice makes available basic hospice services within the service
8 area of the parent agency. A multiple location shares
9 administration, supervision, policies and procedures, and services
10 with the parent agency in a manner that renders it unnecessary for
11 the site to independently meet the licensing requirements.

12 (l) “Home health aide” has the same meaning as set forth in
13 subdivision (c) of Section 1727.

14 (m) “Home health aide services” means those services described
15 in subdivision (d) of Section 1727 that provide for the personal
16 care of the terminally ill patient and the performance of related
17 tasks in the patient’s home in accordance with the plan of care in
18 order to increase the level of comfort and to maintain personal
19 hygiene and a safe, healthy environment for the patient.

20 (n) “Parent agency” means the part of the hospice that is licensed
21 pursuant to this chapter and that develops and maintains
22 administrative controls of multiple locations. All services provided
23 by the multiple locations and parent agency are the responsibility
24 of the parent agency.

25 (o) “Palliative” refers to medical treatment, interdisciplinary
26 care, or consultation provided to the patient or family members,
27 or both, that have as its primary purposes preventing or relieving
28 suffering and enhancing the quality of life, rather than curing the
29 disease, as described in subdivision (b) of Section 1339.31, of a
30 patient who has an end stage medical condition.

31 (p) “Preliminary services” means those services authorized
32 pursuant to subdivision (d) of Section 1749.

33 ~~(q) “Hospice licensed beds” means those beds that have been~~

34 (q) “*Hospice facility*” means a facility that has been licensed,
35 pursuant to subdivision (f) of Section 1749, by the department for
36 the provision of all levels of hospice care, including routine care,
37 continuous care, inpatient respite care, and general inpatient care.
38 ~~Hospice licensed beds are~~ *facility licensure* is an optional
39 component of a licensed and certified hospice provider.

1 ~~SEC. 4.~~

2 SEC. 9. Section 1749 of the Health and Safety Code is amended
3 to read:

4 1749. (a) To qualify for a license under this chapter, an
5 applicant shall satisfy all of the following:

6 (1) Be of good moral character. If the applicant is a franchise,
7 franchisee, firm, association, organization, partnership, business
8 trust, corporation, company, political subdivision of the state, or
9 governmental agency, the person in charge of the hospice for which
10 the application for a license is made shall be of good moral
11 character.

12 (2) Demonstrate the ability of the applicant to comply with this
13 chapter and any rules and regulations promulgated under this
14 chapter by the department.

15 (3) File a completed application with the department that was
16 prescribed and furnished pursuant to Section 1748.

17 (b) In order for a person, political subdivision of the state, or
18 other governmental agency to be licensed as a hospice it shall
19 satisfy the definition of a hospice contained in Section 1746, and
20 also provide, or make provision for, the following basic services:

- 21 (1) Skilled nursing services.
- 22 (2) Social services/counseling services.
- 23 (3) Medical direction.
- 24 (4) Bereavement services.
- 25 (5) Volunteer services.
- 26 (6) Inpatient care arrangements.
- 27 (7) Home health aide services.

28 (c) The services required to be provided pursuant to subdivision
29 (b) shall be provided in compliance with the most current edition
30 of the “Standards for Quality Hospice Care,” as available from the
31 California Hospice and Palliative Care Association, until the
32 department adopts regulations establishing alternative standards
33 pursuant to subdivision (e).

34 (d) (1) Notwithstanding any provision of law to the contrary,
35 to meet the unique needs of the community, licensed hospices may
36 provide, in addition to hospice services authorized in this chapter,
37 any of the following preliminary services for any person in need
38 of those services, as determined by the physician and surgeon, if
39 any, in charge of the care of a patient, or at the request of the patient
40 or family:

- 1 (A) Preliminary palliative care consultations.
- 2 (B) Preliminary counseling and care planning.
- 3 (C) Preliminary grief and bereavement services.

4 (2) Preliminary services authorized pursuant to this subdivision
5 may be provided concurrently with curative treatment to a person
6 who does not have a terminal prognosis or who has not elected to
7 receive hospice services only by licensed and certified hospices.
8 These services shall be subject to the schedule of benefits under
9 the Medi-Cal program, pursuant to subdivision (w) of Section
10 14132 of the Welfare and Institutions Code.

11 (e) (1) The department may adopt regulations establishing
12 standards for any or all of the services required to be provided
13 under subdivision (b). The regulations of the department adopted
14 pursuant to this subdivision shall supersede the standards
15 referenced in subdivision (c) to the extent the regulations duplicate
16 or replace those standards.

17 ~~(2) The department shall, by January 1, 2009, adopt regulations~~
18 ~~establishing standards for all of the services required to be provided~~
19 ~~under subdivision (f).~~

20 *(2) The department may require hospice facilities to provide,*
21 *or make provision for, services in addition to those required by*
22 *subdivision (b).*

23 (f) (1) Licensed and certified hospices may apply for a hospice
24 ~~bed facility~~ license.

25 (2) (A) ~~Hospice-licensed-beds facilities~~ may be located in a
26 portion of an existing licensed health facility or residential care
27 facility that meets all applicable building and safety requirements.
28 *Persons excluded under Sections 1558, 1568.092, or 1569.58 shall*
29 *not be a member of a hospice facility board of directors, or a*
30 *licensee, contractor, or an employee of the hospice facility.*

31 (B) When a licensed and certified hospice provider applies for
32 ~~hospice-licensed-beds facility licensure~~ within an existing licensed
33 facility, that facility may place any or all of its licensed bed
34 capacity in voluntary suspension to permit the hospice provider
35 to use those beds as ~~hospice-licensed-beds a hospice facility~~, after
36 submitting written notification to the State Department of Public
37 Health and to the Office of Statewide Health Planning and
38 Development, and, if in a residential care facility, to the State
39 Department of Social Services.

1 (C) During the period of voluntary suspense, the *facility portion*
 2 *of the facility used as a hospice facility* shall ~~remain under the~~
 3 ~~jurisdiction of the applicable licensing department as well as be~~
 4 ~~under the jurisdiction of the State Department of Public Health~~
 5 ~~for the portion used for hospice licensed beds.~~

6 ~~(D) Licensed and certified hospices applying for a hospice bed~~
 7 ~~license for a bed that is located~~

8 (D) *Licensed and certified hospices applying for hospice facility*
 9 *licensure* within an existing licensed facility shall assume full and
 10 complete responsibility for the operation of the ~~hospice licensed~~
 11 ~~bed hospice licensed facility~~, including all services required to be
 12 provided pursuant to subdivision (b). Unless assumed by contract,
 13 in no event shall a licensed health facility or residential care facility
 14 be responsible for the operation of the ~~hospice licensed beds~~
 15 *licensed hospice facility* or assume any liability in connection
 16 therewith.

17 ~~(3) (A) The Office of Statewide Health Planning and~~
 18 ~~Development shall establish minimum standard requirements, and~~
 19 ~~shall adopt any rules and regulations as the office deems necessary;~~
 20 ~~to properly regulate the building and safety standards of hospice~~
 21 ~~licensed beds.~~

22 (3) (A) *Hospice facility licensees shall obtain a criminal*
 23 *background check prior to hiring for all staff persons, volunteers,*
 24 *employees, or contract employees who have contact with patients.*
 25 *The licensee shall not be required to obtain a criminal background*
 26 *check for staff persons, employees, or contract employees who*
 27 *possess a license or certificate in good standing issued by a state*
 28 *department, agency, commission, or board for which a criminal*
 29 *record clearance is required as a condition of licensure or*
 30 *certification.*

31 (B) *The hospice facility licensee shall pay the costs of obtaining*
 32 *a criminal background check.*

33 (4) *A hospice facility may operate as a freestanding facility.*

34 (A) *A freestanding hospice facility with six or fewer beds shall*
 35 *comply with building standards in accordance with the*
 36 *requirements for Occupancy Group R 3.1.*

37 (B) *A freestanding hospice facility with more than six beds shall*
 38 *comply with building standards in accordance with the*
 39 *requirements for Occupancy Group I-1.*

1 (5) (A) A hospice facility may lease contiguous space or beds
2 within the physical plant of any other licensed health facility or
3 residential care facility.

4 (B) A hospice facility that occupies space within any other health
5 facility shall meet the building standards and fire and life safety
6 code requirements for the classification of health facility within
7 which it is located.

8 (C) (i) A hospice facility with six or fewer beds that occupies
9 space within an adult residential facility, residential care facility,
10 residential care facility for the chronically ill, or residential care
11 facility for the elderly, shall comply with building standards in
12 accordance with the requirements for Occupancy Group R 3.1.

13 (ii) A hospice facility with more than six beds that occupies
14 space within an adult residential facility, residential care facility,
15 residential care facility for the chronically ill, or residential care
16 facility for the elderly, shall comply with building standards in
17 accordance with the requirements for Occupancy Group I-1.

18 ~~(B)~~

19 (6) Building standards adopted by the office pursuant to this
20 section relating to fire and panic safety, and other regulations
21 adopted by the office pursuant to this section shall apply uniformly
22 throughout the state.

23 ~~(C)~~

24 (7) No city, county, city and county, including a charter city or
25 charter county, or fire protection district shall adopt or enforce any
26 ordinance or local rule or regulation relating to fire and panic safety
27 in buildings or structures subject to this section that is inconsistent
28 with the rules and regulations adopted by the office pursuant to
29 this section.

30 ~~(4) The department shall establish a licensing fee for hospice
31 licensed beds not in freestanding hospice facilities.~~

32 ~~SEC. 5.~~

33 ~~SEC. 10.~~ Section 1750 of the Health and Safety Code is
34 amended to read:

35 1750. (a) Each new and renewal application for a license
36 under this chapter shall be accompanied by an annual Licensing
37 and Certification Program fee set in accordance with Section 1266.

38 (b) All hospices shall maintain compliance with the licensing
39 requirements. These requirements shall not, however, prohibit the
40 use of alternate concepts, methods, procedures, techniques, space,

1 equipment, personnel qualifications, or the conducting of pilot
2 projects, necessary for program flexibility. Program flexibility
3 shall be carried out with provision for safe and adequate patient
4 care and with prior written approval of the department. A written
5 request for program flexibility and substantiating evidence
6 supporting the request shall be submitted by the applicant or
7 licensee to the department. The department shall approve or deny
8 the request within 60 days of submission. Approval shall be in
9 writing and shall provide for the terms and conditions under which
10 program flexibility is approved. A denial shall be in writing and
11 shall specify the basis therefor. If after investigation the department
12 determines that a hospice using program flexibility pursuant to
13 this section is operating in a manner contrary to the terms or
14 conditions of the approval for program flexibility, the director shall
15 immediately revoke that approval.

16 (c) Each hospice shall, on or before March 15 of each year, file
17 with the Office of Statewide Health Planning and Development
18 (OSHPD), upon forms furnished by OSHPD, a verified report for
19 the preceding calendar year upon all matters requested by OSHPD.
20 This report may include, but not be limited to, data pertaining to
21 age of patients, diagnostic categories of patients, and number of
22 visits by service provided.

23 *SEC. 11. Section 13131.6 is added to the Health and Safety*
24 *Code, to read:*

25 *13131.6. (a) A hospice facility licensed pursuant to subdivision*
26 *(m) of Section 1250 that is either freestanding or located within*
27 *the physical part of a residential care facility, a congregate living*
28 *health facility licensed pursuant to subdivision (i) of Section 1250,*
29 *an intermediate care facility/developmentally disabled habilitative*
30 *licensed pursuant to subdivision (e) of Section 1250, or an*
31 *intermediate care facility/developmentally disabled—nursing*
32 *licensed pursuant to subdivision (h) of Section 1250, shall not be*
33 *required to submit construction plans to the department for new*
34 *construction or renovation.*

35 *(b) A hospice facility occupying space within any other health*
36 *facility that leases contiguous space or beds shall meet the building*
37 *standards and fire and life safety code requirements for the*
38 *classification of health facility within which it is located.*

39 *SEC. 12. The provisions of this act shall not become operative*
40 *unless the State Department of Public Health is successful in*

1 *promulgating regulations that become final. Nothing in this act*
2 *shall preclude the department from receiving a petition for*
3 *regulations under Section 11340.7 of the Government Code.*

4 ~~SEC. 6.~~

5 *SEC. 13.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

O